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differing from a crack, because there is no actual parting of the substance in which the seam appears, though it may develop into a crack.

[Ed. Note.—For other definitions, see Words and Phrases, vol. 7, pp. 6734; vol. 8, p. 7796. 12 Va.-W. Va. Enc. Dig. 116.]

10. Master and Servant (§ 278*)—Action for Injuries—Sufficiency of Evidence—Safe Place to Work.—Evidence, in an action for the death of plaintiff's intestate from the falling of stone in a quarry, from the alleged negligence in leaving perpendicular unsupported walls, held sufficient in view of the hazards of the work, to show that defendant had used reasonable care to furnish a place reasonably safe for work.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. §§ 954, 956-958, 960-969, 971, 972, 977; Dec. Dig. § 278.* 9 Va.-W. Va. Enc. Dig. 725; 15 Va.-W. Va. Enc. Dig. 659.]

Error to Circuit Court, Nelson County.

Action by Nathaniel Bowles' Administrator against the Virginia Soapstone Company. Judgment for defendant, and plaintiff brings error. Affirmed.

Caskie & Caskie, of Lynchburg, for plaintiff in error.

P. H. C. Cabell, of Richmond, and *Coleman, Easley & Coleman*, of Lynchburg, for defendant in error.

NORFOLK COUNTY WATER CO. *v.* WOOD.

March 12, 1914.

[81 S. E. 19.]

1. Eminent Domain (§ 10*)—Charter of Water Company—Private Purpose.—Where the charter of a water company gave it power to hold real estate, take water, pipe it, and sell the same to individuals or corporations, make contracts, etc., but contained no provisions requiring the power to be employed directly for a public use, or forbidding it from using all the water obtained by it for a purely private use, such as a manufacturing business, or from selling it all to one person, the water company did not have the right of eminent domain.

[Ed. Note.—For other cases, see Eminent Domain, Cent. Dig. §§ 35-48; Dec. Dig. § 10.* 5 Va.-W. Va. Enc. Dig. 877; 14 Va.-W. Va. Enc. Dig. 386; 15 Va.-W. Va. Enc. Dig. 331.]

2. Eminent Domain (§ 10*)—Water Company—Right of Legislature to Grant—Public Use.—That the Legislature has given a water company the right of eminent domain and the grant has been accepted

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

will not confer such right on the company, where the charter does not make the company a public service corporation, since the Legislature cannot make a use public by declaring it so, but it is for the courts to determine whether the declared uses are in law public uses.

[Ed. Note.—For other cases, see Eminent Domain, Cent. Dig. §§ 35-48; Dec. Dig. § 10.* 5 Va.-W. Va. Enc. Dig. 71.]

3. Eminent Domain (§ 10*)—Water Company—Rights under Charter.—If a water company's charter by its terms does not make it a public service corporation, that it had always performed a public service would not give it a right of eminent domain.

[Ed. Note.—For other cases, see Eminent Domain, Cent. Dig. §§ 35-49; Dec. Dig. § 10.* 5 Va.-W. Va. Enc. Dig. 71.]

4. Eminent Domain (§ 10*)—Water Company—Rights under Charter—Statute.—That Code 1904, § 1294a, includes water companies, and that section 1294b, cl. 17, provides that every public service corporation shall be governed by the provisions of the act, and section 1105c bestows upon each public service corporation the power of eminent domain, would not give a water company, whose charter gave it powers purely private, the right of eminent domain, since the statutes referred only to public service corporations chartered for the public use and benefit.

[Ed. Note.—For other cases, see Eminent Domain, Cent. Dig. §§ 35-49; Dec. Dig. § 10.* 5 Va.-W. Va. Enc. Dig. 71.]

Error to Circuit Court, Princess Anne County.

Condemnation proceedings by the Norfolk County Water Company against John C. Wood and William E. Wood. Two cases. From an order denying plaintiff's right of condemnation, plaintiff brings error. Affirmed.

Pender & Way, of Norfolk, for plaintiff in error.

Robert W. Tomlin, of Norfolk, for defendants in error.

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.